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December 30, 1999

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Office of Commissioner Furchtgott-Roth
Federal Communications Commission
The Portals
445 12th Street, S.W.
Room 8-A302C
Washington, D.C. 20554

**Re: DTV Utah Rule Making Proceeding
MM Docket No. 99-197, RM-9573**

Dear Commissioner Furchtgott-Roth:

In 1998, eight television stations in the Utah market (collectively "DTV Utah")² came together to develop a plan by which all eight stations could collocate their digital facilities on a single joint tower in the Salt Lake City area. All existing full power broadcasters in the area were invited to participate in the project, and ultimately five commercial stations and three non-commercial stations committed to the project. Over the past year, DTV Utah has worked intensively with the Commission, the translator and LPTV communities, other television stations in the Utah community, consulting engineers and counsel to secure the success of the DTV Utah joint tower project.

DTV Utah filed its petition for rulemaking on March 12, 1999, and the rulemaking proceeding (MM Docket No. 99-197, RM-9573) has been pending at the Commission for more than seven months. Any further delay in resolving this matter will only

² DTV Utah is comprised of eight television stations in the Utah market. The licensees of these eight stations are Brigham Young University (licensee of NCE Station KBYU-TV); Larry H. Miller Communications Corp. (licensee of Station KJZZ-TV); Bonneville Holding Company (licensee of Station KSL-TV); United Television, Inc. (licensee of Station KTVX); University of Utah (licensee of NCE Stations KUED and KULC); KUTV Associates (licensee of Station KUTV); and ACME Television Licenses of Utah, LLC (licensee of Station KUWB).

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complicate the issues before the Commission, and will place the success of the DTV Utah joint tower project at grave risk. Therefore, DTV Utah respectfully requests the expeditious resolution of the DTV Utah rulemaking, before other issues, such as the filing of Class A eligibility certifications on January 28, 1999, disrupts the carefully balanced joint tower project and regional channel plan DTV Utah has worked so diligently to develop.

History Of DTV Utah Rule Making

After intensive engineering analysis and coordination between the DTV Utah stations a channel plan was developed that would permit all eight stations to operate from a single tower located on Farnsworth Peak. The channel plan resolved potential interference problems and technical obstacles that otherwise would preclude co-location of these eight stations. The channel plan involved three inter-dependent components – (1) four amendments to the DTV Table (four DTV channels allotted and assigned to DTV Utah stations would be relinquished in exchange for four channels not currently in the DTV Table), (2) an intra-market channel swap between two stations pursuant to Sections 73.622(c) and 73.623(f) of the Commission's rules, and (3) the retention by three stations of the DTV channels allotted/assigned to them in the DTV Table. The first of these three components required a rulemaking proceeding to amend the DTV Table. All three components are critical to the success of the joint tower project.

In December 1998, DTV Utah approached the Mass Media Bureau staff to explain the DTV Utah proposal, and to confirm the steps needed to accomplish the channel changes in an expedited manner. Prior to filing the petition, it continued to confer with the staff to ensure that the proposed channel plan would be acceptable from an engineering perspective and to ensure speedy action with respect to the proposal. For example, with the support of the FCC staff DTV Utah worked with the LPTV and translator communities to mitigate the impact of the joint tower on these services.

The DTV Utah joint tower plan was just the sort of cooperative arrangement between broadcasters that the Commission had explicitly encouraged in the DTV proceeding. It would produce economies and efficiencies that would reduce the burden of the DTV transition on all of the stations involved in the project and speed the initiation of digital services by these stations, result in the construction of fewer digital towers in Utah, and facilitate DTV reception from antennas oriented towards the joint tower, which would, in turn, facilitate consumer interest in and access to DTV services.

Moreover, DTV Utah took steps to ensure that the DTV Utah channel plan would not result in harmful interference to the NTSC and DTV operations of other full power stations in the Utah market, and worked extensively with the LPTV and translator communities to ensure that *not one* translator or LPTV in the State of Utah would be displaced by DTV Utah's digital operations from the joint tower. These efforts involved (1) the filing of approximately 135 translator displacement applications to effect a master translator plan supported by the State of

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Utah, and (2) coordination with the LPTV community to develop a channel plan that would ensure that no LPTV would go off the air as a result of the DTV Utah project. In short, DTV Utah developed a delicate and complicated regional plan that would both optimize the DTV service available to Utah's viewers and preserve all of the area's LPTV and translator service.

Despite these extensive efforts, the Commission has yet to approve the DTV Utah proposal. The Commission released a Notice of Proposed Rule Making proposing to amend the DTV Table as requested by DTV Utah on May 21, 1999. Two entities with pending petitions to add new channels to the NTSC Table of allotments opposed the proposal, but, as explained in detail in DTV Utah's Reply comments filed July 12, 1999, these petitions should not impede the DTV Utah proposal. The DTV Utah proposal does not reduce the number of unoccupied channels in the Utah market, and thus does not preclude or inhibit the Commission from acting on these petitions in separate proceedings to amend the NTSC Table, to the extent that it deems such action to be in the public interest.

Urgent Need For Expeditious Action

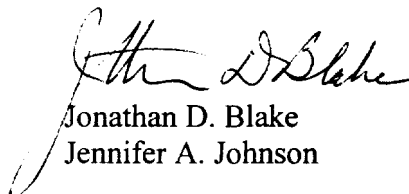
DTV Utah urges quick action on the long-pending rulemaking proceeding. Expeditious resolution of the rulemaking will permit the DTV Utah stations to construct their facilities, and finalize any maximization plans so that they can file appropriate maximization applications by the May 1, 2000 deadline imposed by Congress in the Community Broadcasters Protection Act of 1999. Moreover, the DTV Utah stations involved in the rulemaking are anxious to construct their digital facilities, but have only a short window of time in the summer during which construction is possible.

In addition, DTV Utah is extremely concerned that the carefully developed regional plan to preserve all of the existing LPTV and translator stations in the State of Utah could be jeopardized or complicated if these stations are not given certainty regarding the DTV Utah channel plan – and thus, the LPTV and translator plans developed around the DTV Utah channel plan – prior to the January 28, 2000 deadline for certifying eligibility for Class A status. Without such certainty, LPTV stations eligible for Class A status may seek Class A protection for channels that conflict with the DTV Utah channel plan, rather than on the channels they have agreed to occupy to accommodate the DTV Utah plan.

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In light of the foregoing, DTV Utah respectfully requests favorable and expeditious action – action by no later than January 20, 2000 – by the Commission with regard to the pending DTV Utah rulemaking proceeding.

Respectfully Submitted,



Jonathan D. Blake
Jennifer A. Johnson

*On Behalf of DTV Utah:
Stations KBYU-TV, KJZZ-TV, KSL-TV,
KTVX, KUED, KULC, KUTV and KUWB*

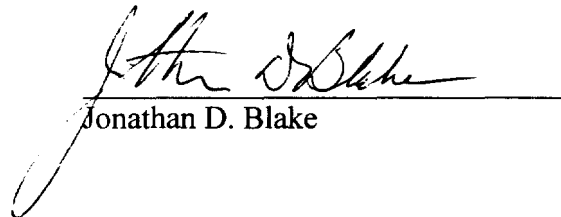
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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of December, 1999 a copy of the foregoing letter was served via first-class mail, postage prepaid on the following:

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